Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Morrow | Analyst: LuAnna Hass | Bill Number: SB 49XX

Related Bills: See Prior Analysis | Telephone: 845-7478 | Amended Date: May 21, 2001

Attorney: Patrick Kusiak | Sponsor:

SUBJECT: Excessive Energy Costs Credit

____	DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ________________________.
X	AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
X	AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced May 17, 2001.
X	FURTHER AMENDMENTS NECESSARY.
____	DEPARTMENT POSITION CHANGED TO ________________________.
X	REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED May 17, 2001, STILL APPLIES.
____	OTHER - See comments below.

SUMMARY

This bill would provide a credit for any excessive energy costs paid by residential or commercial customers.

SUMMARY OF AMENDMENTS

The May 21, 2001, amendments would modify the formula used to compute excessive energy costs to mean the product of:

- One quarter of the taxpayer's energy costs for the taxable year;
- The amount, stated as a decimal equivalent, by which the energy component of the federal Consumer Price Index (CPI) for the region or area that is nearest to the taxpayer's principal residence or place of business exceeds 110% of the national average of the energy component of the federal CPI.

Except for an updated revenue estimate and the removal of a policy consideration that was resolved with these amendments, the remainder of the department's analysis of the bill as introduced May 17, 2001, still applies. The following implementation and policy considerations still apply and are included below for convenience.

Board Position:			Legislative Director	Date
____ S	____ NA	X NP	Brian Putler	05/30/01
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POSITION

No Position.

At its May 2, 2001, meeting, the Franchise Tax Board voted 2-0 to take no position on SB 49X, a bill that was identical to this bill, with Annette Porini, on behalf of Member B. Timothy Gage abstaining.

IMPLEMENTATION CONCERNS

There are a number of concerns related to the CPI:

- The bill does not identify the date for which the CPIs would be determined or state whether an average CPI for the taxable year should be used.
- The bill determines excessive costs by reference to the federal CPI for the region or area that is nearest the taxpayer's residence or principal place of business. Only three geographic regions are reported for California: Los Angeles-Riverside-Orange County, San Diego, and San Francisco-Oakland-San Jose. A statewide average also is reported. All other areas would need to use the statewide average or the CPI for one of these three regions. The bill does not specify how the taxpayer's region or area CPI would be determined for communities that are outside the three regions or are equidistant from two regions. Further, the bill does not limit the regional CPIs to California regions.
- The energy component of the CPI includes components other than electricity, such as natural gas piped, fuel oil, and gasoline.

The bill provides a credit for costs of "energy" but does not further define energy. However, the credit is limited to energy supplied by an electrical corporation or a local publicly owned energy utility. As a result, costs for energy other than electrical energy (i.e., natural gas) received from a local publicly owned utility would be eligible for the credit whereas natural gas from a gas corporation would not. If this is not the author's intent, the author may wish to amend the bill accordingly.

The bill does not limit the number of years for the carryover period. The department would continue to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed after the credit itself has expired. Recent credits have been enacted with a carryover period limitation since experience shows credits are typically used within eight years of being earned.

ECONOMIC IMPACT

Revenue Discussion

Maintaining the assumptions in the previous revenue estimate regarding the federal and California energy components of CPI, the revenue impact of the bill as amended would be about $470 million annually, estimated as follows. It is assumed that the California index will increase to 147.8, and that 110% of the corresponding federal index will be 137, resulting in a difference of about .11 in decimal equivalent, or 11%. Multiplying this by 25% of the California electricity bill—about $25 billion—results in $670 million of potential tax credits. Allowing for non-taxable households and businesses, the actual revenue loss would be on the order of $470 million annually beginning in 2001-2.

ARGUMENTS/POLICY CONCERNS

The bill does not clearly restrict the energy costs to those paid or incurred in California. Although the definition of electrical corporation refers to an electric power plant in this state, the credit also would be allowed for costs for energy from a local energy utility. The bill does not require that the local energy utility be in this state. Thus, a taxpayer that operates a business both within and without California could compute the credit on the amount paid or incurred for energy costs both within and without this state.

The bill does not require the energy costs or the credit amount to be reduced by the amount of any financial incentive or grant received from a local, state, or federal government, or any utility.

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